

Response Under 37 C.F.R. § 1.111
Serial No. 10/092,591
SUGHRUE MION, PLLC Ref: Q68895

examiner should withdraw that rejection and permit the earlier-filed application to issue as a patent. MPEP §1490.

Here, the subject application was filed on March 8, 2002, whereas the '852 application was filed on February 18, 2004. Also, the obviousness-type double patenting rejection is the only rejection remaining in the outstanding Office Action. Accordingly, pursuant to MPEP§ 1490, Applicants request that the double patenting rejection be withdrawn so that the application can be passed to issue.

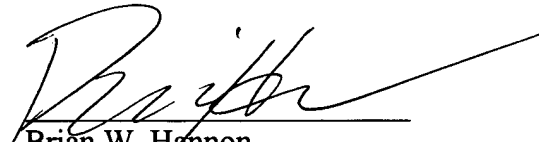
Further, Applicants submit that the rejection is improper in any event as the claims are patentably distinct from one another - e.g., claims 17-19 of the '852 application include patentably distinguishing features over claims 1, 2, 10 and 13 of the subject application, such as the pivotable mouth guide (claim 17) and retainer for retaining oxygen supply tube (claims 18 and 19) and the oxygen supply tube (claim 19).

In view of the foregoing, it is submitted that the application is in condition for allowance. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

Response Under 37 C.F.R. § 1.111
Serial No. 10/092,591
SUGHRUE MION, PLLC Ref: Q68895

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



Brian W. Hannon

Registration No. 32,778

SUGHRUE MION, PLLC
Telephone: (202) 293-7060
Facsimile: (202) 293-7860

WASHINGTON OFFICE

23373

CUSTOMER NUMBER

Date: April 29, 2005